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CARLSON, GASKEY & OLDS, P.C.  
400 WEST MAPLE ROAD  
SUITE 350  
BIRMINGHAM MI 48009

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DEC 14 2004

**OFFICE OF PETITIONS**

In re Application of  
Thomas et al.  
Application No. 09/647,126  
International  
Filing Date: March 18, 1999  
For: DISC BRAKE SEAL ASSEMBLY

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: Corrected  
: Letter Regarding  
: Extension of Patent Term  
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The above-identified application has been forwarded to the undersigned for correction of the patent term extension information printed on the Notice of Allowance and Issue Fee due that was mailed on November 17, 2004. See 35 U.S.C. §§ 154(a)(2) and (b)(1)<sup>1</sup> and 37 C.F.R. § 1.701(a).

Issue of the above-identified application was delayed due to appellate proceedings before the Board of Appeals and Interferences, and the above-identified application has been allowed pursuant to a favorable decision by the Board.

A Notice of Appeal was filed in the above-identified application on July 30, 2002. On March 19, 2004, the Board of Appeals and Interferences reversed the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on July 30, 2002, the date that the Notice of Appeal was filed, and ending on March 19, 2004, the date of the final decision in favor of the applicant. Three years after the International filing date of the application is March 18, 2002. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is 599 days, the period from July 30,

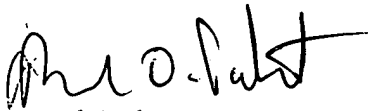
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<sup>1</sup>35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

2002 to March 19, 2004, including the beginning and end dates.

After mailing of this decision, the above-identified application will be returned to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **599** days.

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.

A handwritten signature in black ink, appearing to read 'Mark Polutta', is written above the printed name.

Mark Polutta  
Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy